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removes language to comply with the Single Subject Rule and  
I would ask that Senate Amendment #1 and Senate Amendment  
#2, we concur on House Bill 3415."

Speaker Lang: "There being no one seeking recognition the  
question is, 'Shall the House concur in Senate Amendments  
#1 and 2 to House Bill 3415?' This is final action. All  
those in favor will signify by voting 'aye'; those opposed  
shall vote 'no'. The voting is open. Have all voted who  
wish? Have all voted who wish? Have all voted who wish?  
Mr. Clerk, please take the record. On this question there  
are 112 voting 'yes', 0 voting 'no' and 0 voting 'present';  
and this Bill, having received the Constitutional Majority,  
is hereby declared passed. House Bill 3431, Representative  
Zickus. Is the Lady in the chamber? House Bill 3464,  
Representative Mautino."

Mautino: "Thank you, Mr. Speaker, Ladies and Gentlemen of the  
House. I move to concur in Senate Amendment #1 to House  
Bill 3464. This Bill cleans up some objections.  
Originally, ~~House Bill 3464 dealt~~ with the service contract  
issue. And once this Bill... it was unopposed in the House  
committee or on the House floor. When it got to the  
Senate, developed opposition there and Senator Walsh then  
convened negotiations with the home builders, the realtors,  
the unions, the plumbers, as well, and all parties sat  
down. They were able to agree to some language which would  
allow small business to continue to operate, prosper, and  
grow along with taking care of the concerns and putting  
some consumer protections in that makes sure that when you  
buy a service contract that there is something to stand  
behind it and I ask for your 'aye' votes."

Speaker Lang: "Representative Giglio."

Giglio: "Thank you, Mr. Speaker. To the Bill. I rise in support

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of House Bill 3464, as amended. And I'd like to especially thank the Sponsors, Representative Mautino and Senator Walsh. The... their willingness to work with the contractors and the retail merchants to make an agreeable Bill that was not overly burdensome on the contractor or the service contract provider, yet also, provided a tremendous amount of protection for the consumer, that up until this time the consumer did not have. So I would simply ask for your favorable support and again, congratulate the Sponsor. Thank you."

Speaker Lang: "Mr. Brady."

Brady: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Lang: "The Gentleman will yield."

Brady: "Representative, I have a couple questions here for you.

First question is, are new home warranties that cover the work of a builder and his or her subcontractors affected by the passage of House Bill 3464?"

Mautino: "Answer: Number one, no."

Brady: "Question... My second question, are home warranties different from service contract agreements?"

Mautino: "Answer: Number two. Yes, service contract agreements, by definition, are separate sales items above and beyond the cost of the product being sold. Home warranties are included in the price of the home and are not regarded as service contracts and that is for the purchase of legislative intent as was agreed by all Members."

Brady: "Thank you, Representative Mautino. I want to compliment Representative Mautino and Senator Walsh for their hard work in this effort. I encourage your favorable support."

Speaker Lang: "Representative Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

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Speaker Lang: "The Gentleman yields."

Black: "Representative Mautino, I grew up in a small heating and air conditioning business that my father ran for forty-some years and my brother runs now, and service contracts have become a very important part of that business. And I'm not sure that I understand all of the nuances of the Senate Amendment. Who are we exempting and why are we asking a service contract provider to comply only with certain Sections of this Act? Why not the entire Act?"

Mautino: "I'm sorry, could you repeat the last part of the question?"

Black: "Yeah, why are we exempting those people who sell you service contracts? And let me tell you, you can't buy anything today that they don't try to sell you a one, three or five year service contract. In fact, there are some retail stores that will wrestle you to the ground trying to get you to sign a service contract on a piece of merchandise. And I don't know, I'm just looking at our staff analysis, that some of these providers of service contracts will only have to comply with certain Sections of the underlying Act. What Sections are we exempting?"

Mautino: "Actually, those...they will still have to comply with all of the consumer protection Sections. They will still have to do all of the recording and the recordkeeping. The original Bill would have required the purchase of additional, either insurance or having huge reserves, which basically took your small heating contractors and would have caused them to have to set aside the dollars they couldn't afford to on it. But will they still have to have the same consumer protections as the big guys that are out there."

Black: "Do you know whether the Illinois Home Builders

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Association appeared at any of the committee hearings on the Bill?"

Mautino: "As a matter of fact, they were one of the members of the negotiations. They did not appear in the House committee hearing on it, but they did appear in the Senate committee and also, in I believe, four or five of the meetings which addressed all their concerns, especially the area of new home construction. As a matter of fact, Representative Brady and I have just done the legislative intent that was requested by the home builders

Black: "Right... to ensure that that is structured and it was outstanding intent. How does it work in the case of the mass merchandisers today? And you hate to use names and give them the publicity. But you know, and there are lots of them out there who will sell you everything from a washer/dryer to a toaster and then ask you to sign up for a service contract. And I've always wondered at the time, because most of these huge discount stores do not have a service department. So, how is that going to be covered? If you buy a television set, for example, from Wal-Mart and they want you to take out a service contract, who then...who then it falls under the service contract protection? Cause the last time I checked and I could be wrong, but I don't think Wal-Mart Stores normally have a service department in their appliance division."

Mautino: "Okay. As far as the service contract, that's actually the reason that we did the original Bill. It gets to the underlying Bill. These companies would carry these service contracts that have either the reserves or an insurance contract. If you don't receive the satisfaction from that company, specifically, then you could go directly for reimbursement through the insurance carrier."

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Black: "So, in other words, if a large mass merchandiser is selling everything from small appliances to giant TV's, my experience is that they usually contract with a local individual who may own you know, a pickup truck and have some tools and a measure of expertise in fixing those. But they sell you this service contract. Obviously, we know why they sell the service contract. They're hoping that it doesn't break down and the service contract is a little added gravy, if you would. But my concern is, then, if I'm signing... if I have a huge store like Wal-Mart and I contract with a local mechanic and he comes to my house and he says, 'You know, I can't fix this washing machine. I really don't know how to fix this particular washing machine.' But I have a contract with Wal-Mart, then is Wal-Mart going to have to stand behind the machine and find a contractor to fix it?"

Mautino: "In the scenario that you gave, the person who is selling that contract and we'll use Wal-Mart for the example; in Section 20 under the reimbursement policy, if they could not live up to that warranty, they could reimburse you as the consumer because the idea is to protect the consumer here. Now, so, the liability would still fall back on the person who sold you that contract."

Black: "Well, see, that's what's got me confused. I know I grew up with Sears and Roebuck, Montgomery Ward, and they had service departments and I think Sears still does."

Mautino: "Yes, they do."

Black: "But there's a lot of these mass merchandisers who sell everything and I know they don't have a service department. Yet, they're selling you a service contract and I assume enter into a subcontract with a local mechanic or a local shop to fix it. So, am I still protected under that case?"

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Mautino: "Yes, you are. As a matter of fact, I'm glad that you brought that up. One of the points in here is that those smaller shops are still required to carry all of the disclosure and reporting requirements. They would be a subcontractor, but your contract is with the person who sold you the merchandise. But even if you had a question as to who did the work and you weren't happy with their work, then you could come back directly to the insurance that's backing your washing machine for reimbursement."

Black: "Okay. The last question, and I ask this simply because in my area, other than some of the mass merchandisers that have moved in, we still have a awful lot of family-owned businesses. John's Appliance Store that sells washers, dryers and refrigerators and ranges, Frank's Television Store that sells televisions and maybe a stereo or something of that sort. But they're very small businesses. They probably do a relatively small gross and they usually have somebody in the back room to do service. Now are they going to have expensive requirements put on their business so that they can issue a service contract?"

Mautino: "Actually, that is the point of Amendment #1 in the Senate. The Bill that we originally pass had very expensive requirements that the small guy could not keep up with.

Black: "Okay."

Mautino: "And so this says that you've got to comply with the consumer sections of the Bill, but you're not going to have the undue burdens that were in the original Bill and thank goodness, the Senate read it."

Black: "Okay. So, it's certainly not your intent. This is not a Bill that will make it more difficult for the rural main street merchant to continue doing business and to continue

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to offer service contracts?"

Mautino: "The entire intent of the Amendment and what's been accomplished here is to allow them to continue with their service business with some consumer protections, but without the undue burdens."

Black: "Okay. All right."

Mautino: "That was my intent, as well, and the intent of the entire Body. I'm glad that this was brought up in the Senate so we could correct it."

Black: "Okay, good. One last question, Frank. Excuse me, Representative. Is... Did the chamber sign in or the National Federation of Independent Business, since they represent a lot of very small folks in rural areas? Did they sign in? Were they neutral or express an opinion?"

Mautino: "To the best of my knowledge, I do believe, Bill. I don't have it in front of me. I had the listing earlier, I just can't find it here. But I do believe that the NFIB did sign off and agree to this."

Black: "Great."

Mautino: "I think that was one of the ones that were listed."

Black: "Great. Okay. That's fine. Thank you. I appreciate your indulgence."

Speaker Lang: "Mr. Mitchell."

Mitchell: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Lang: "Yes."

Mitchell: "Representative Mautino."

Mautino: "Are you reading from a Calendar?"

Mitchell: "Well, backwards. This is for you to read. I think we've got to go to committee and do something for Ron Stephens' Red Ryder BB gun or something. Representative, I've had a lot of calls from all of the plumbers, heating contractors in my district, really concerned, and you've

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probably answered this but just to clarify one more time for me. Does this Amendment take out the requirement that they have to have a \$100,000,000 in assets or 40% of the cost of their service contracts in reserve or insuring their service contracts with a contract insurer?"

Mautino: "Yes, it does and that was...it was taken out specifically. Those are the provisions that puts an undue burden on the small contractors, the plumbers, the heating and cooling people; those that their very existence of their business is based on the service contract and repeat business."

Mitchell: "So, with this Amendment then, we probably won't have that objection from our local plumbers?"

Mautino: "They are agreed and have signed off on it. As a matter of fact, as Representative Giglio had stated, along with the mechanical engineers, as well."

Mitchell: "Okay, thank you, Representative. I have no further questions."

Speaker Lang: "Representative Dart."

Dart: "Will the Sponsor yield?"

Speaker Lang: "Gentleman yields."

Dart: "Are there any opponents to this?"

Mautino: "What's that?"

Dart: "Any opponents to this?"

Mautino: "No, and actually there weren't any the first time in the House, but then it got to the Senate and somebody actually read it. So it's now been fixed. There are no opponents to the Bill. Everyone is agreed."

Dart: "Thanks, Frank."

Speaker Lang: "Representative Brown."

Brown: "Thank you, Mr. Chairman (sic-Speaker). Will the Sponsor yield?"



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Speaker Lang: "The Gentleman will yield."

Brown: "And I apologize for asking. It was very difficult to hear some of the answers. But my question specifically relates to those people who, like the heating and air conditioning contractor who I call to come and clean the furnace in the wintertime, change the filters, come back in the springtime, put in new filters, clean the air conditioner. Those are the people who are calling saying that they have this great undue burden. Are they covered by this legislation?"

Mautino: "This legislation, and thank you for bringing that up. That is the same question that Representative Mitchell had. The reason for the negotiations in the Senate, in Senate Amendment 1, were to take care of the undue burdens in the underlying Bill for the small companies that are out there, those that did not have a \$100,000,000 in assets or those that could not afford to put 40% of their service contracts into reserve. So that has been taken out of there. And we still have the accountability portions for all consumer protections and it should be because it's an unregulated area where a lot of consumers go out and they purchase these contracts and you want to know that there's something standing there behind them. So you have to do the recordkeeping as a small guy. But all the concerns were taken care of at the table from the heating and cooling guys, from the plumbers, from the unions, from the home builders, from the realtors. And I do believe that after quite a bit of work they did get it settled."

Brown: "People who do snowplowing, people who do landscaping on a commercial basis, these people are also covered under this legislation?"

Mautino: "There are no opponents and they've all been brought,

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and we made sure that. And I had asked Senator Walsh if all those who were involved and opposed to this legislation had their concerns taken care of and I was assured that that was correct."

Brown: "And they have to register with someone, is that correct? If you sell a service contract for heating and air conditioning?"

Mautino: "If you provide a service contract, then you have to register with the Department of Insurance."

Brown: "Okay. Thank you."

Mautino: "And so, if someone has a question they can call the Department of Insurance, or if they have a complaint, they would have that on record that you're selling that type of consumer product."

Brown: "Thank you."

Speaker Lang: "Mr. Leitch."

Leitch: "The Gentleman yield?"

Speaker Lang: "Yes, he will yield."

Leitch: "Representative, where did the 100,000,000 number come from originally?"

Mautino: "Retail Merchants' Association. That was structured as the... You had to either have over a 100,000,000 in assets or else you had to set...if you did not have that level of assets, then you had to go and set aside 40% in reserve or else purchase an equivalent amount of insurance that would cover the amount of contracts that you had sold to the consumers. That way, in case of a default, there would be some recourse."

Leitch: "One of the concerns I think we've all seen starting to occur is the large utilities trying to get into the service contract business and squeeze out the little guys in our communities. Do you think that that 100,000,000 number

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reflects that situation?"

Mautino: "I do believe... Well, that was one of the concerns that caused the Amendment to be drafted. That was also brought up very strongly by the IBEW who had the concerns of the utilities coming in and now selling those services that they're doing and they, after, I think, three or four negotiating sessions, settled on it to make sure that they're, the folks who are providing these, were protected."

Leitch: "The other point I would make is while, yeah, they don't have to come up with some expensive bond money, this is yet more paperwork. You know, what kind of paperwork are we now imposing on the small people? Most of the ones I know can't stand yet another form coming from the state for yet another somebody's good idea. They're overwhelmed by all these forms that they have to spend all their time, small guys, filling out."

Mautino: "Okay, what... It's going to become a form contract. But what they have to do and I think it makes imminent sense, is, if you're going to sell these contracts to people, someone should be notified on it and that is notification of the Department of Insurance, and you must list on your disclosure what the terms are and so you got to keep a record. So, if I sell you a contract, I have to keep in file, which I would normally do in my business anyway, what my terms and my agreement are with you on this contract. It'll have that disclosure set out and I believe they're creating a specific form for it because there's requirements of what has to be disclosed on that contract itself."

Leitch: "As you know I have great respect for you as the Sponsor and as an individual, but I'm very concerned. I think the

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reason there may not be any opponents showing up against the Bill is because so many of these 'mom and pop' outfits are hard at work in the communities throughout Illinois and they're not aware of this measure. And I think too often we just continue to pile on and pile on more and more paperwork on the smaller entities and those are people, I think, each of us should be concerned about. So thank you very much."

Speaker Lang: "Representative Skinner."

Skinner: "Mr. Speaker, Members of the General Assembly, I think I finally figured out what this Bill is going to do, and it's not what the Sponsor intends, I'm sure. But when your local Culligan man comes around and says, 'Hey, would you like some clean water?' He's going to have to have a \$100,000,000 behind him or else he's going to have to set aside 40% of the money. Is that correct?"

Mautino: "Actually, that was the problem with the original Bill. That is what the Amendment addressed and took out. That was the complaint from all of the small service contract guys. That's why we had to do Amendment 1, so that they would not be required to have a 100,000,000 in assets or keep 40% in reserve. Many of these companies, incidentally, operate off of a performance bond anyway if they're going out in the market to do it, or have the insurance to back it up. That was the provision which we needed to change to ensure that we didn't hurt the local Culligan guy."

Skinner: "All right. Well, I've got a plumbing contractor in my hometown called Sherman Plumbing. It's been around for, I don't know, as long as I've lived there, at least 40, 50 years I would guess, maybe longer than that, an established business. And what are they going to have to do?"

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Mautino: "If I might on this, in the chambers here we guess on what the outcome are going to be a lot of times, but I think on this one I'd like to ask a real plumber. I'd turn this over to Mr. Giglio. What affect does this have?"

Speaker Lang: "Mr. Giglio."

Giglio: "Thank you, Mr. Speaker and fellow Legislators, if you could, just bear with me for one second. This Bill provides protection for the consumer that before this, it did not have. It also provides so that the contractor is left off of some of the provisions that should not apply to the contractor. For instance, in the event that a contractor provides service contracts and he charges people monies for that contract in advance, say, \$50 for a furnace clean and check or whatever the case may be. Right now, in the event that that contractor goes belly up, the consumer has no protections. Now, bear with, Cal, for one minute please. The consumer has no protection. There's no place for them to go. Under this legislation the contractor would be required, if they provide service contracts, the contractor would be required to file with the Illinois Department of Insurance. And it's a good thing."

Speaker Lang: "Mr. Skinner."

Skinner: "What? File what?"

Giglio: "Pardon me? They will have to file the listing of the types of service contracts they provide, annual amounts that the contracts are worth and I believe that's it. Frank, is that... I think that's all there is that they need to provide to the Illinois Department of Insurance."

Skinner: "What's the reason for this Bill? I've had no complaints."

Giglio: "Because the consumer has no protection from contractors that don't stand behind their contracts, that charge them

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monies and don't provide the service. There's no place for a consumer to go to."

Skinner: "If the consumer is dumb enough to go to a heating contractor that isn't named Giglio Plumbing and hasn't been around for three decades or four decades... I just don't understand why we have to be messing around with small business. We have the Attorney General who has an active consumer complaint division, now we're putting a second department in. If I could ask the Sponsor another question. Will this allow utilities to offer service contracts or can they do that already?"

Speaker Lang: "Mr. Mautino."

Mautino: "Okay. In answer to your question, first of all, anybody can offer a service contract right now. The point is, we don't regulate them. And in here... If I'm going to sell you a contract, I'm required to tell the Department of Insurance that I'm selling you or anyone else in this Body a contract and let's use Representative Giglio's example, a contract for cleaning the furnace for \$50. You're going to pay that in advance. What I have to provide to the department is what the consumer protections are. I have to tell them clearly that the consumer is allowed to cancel this contract. I cannot...that the retailer cannot retain a cancellation fee of more than 10% of the contract or \$50, whichever is smaller. It says exactly what the consumer themselves can expect. So we don't currently do it now. As to your questions for utilities, they can already offer service contrac..."

Speaker Lang: "Mr... Representative Tom Johnson yields his five minutes to Mr. Skinner. Please proceed."

Skinner: "Well, I guess I have a conceptual problem here. I have a conceptual problem. It appears we are... I mean, this

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Bill attempts to regulate small business more than it is already regulated, as well as large business, obviously. What makes you think the Department of Insurance hasn't got its hands just totally full with regulating insurance companies?"

Mautino: "The Department of Insurance took a look at this and had agreed and signed off on the language. That's something that they can do and something that should be done in the interest of the consumers. For example, we don't operate them now, so an example that you gave me earlier, if that person...that person who...who you bought the service contract with goes belly up, as the person who paid good hard earned money to get that, you're out of luck here in the State of Illinois. We don't regulate it. And so... And it's not a big regulation. You have to send a form to the department and say, I'm going to sell this contract and this guy is allowed to cancel or if he does cancel here are my terms."

Skinner: "But he has to put up 40..but he has to put up 40% of the money."

Mautino: "No. That's what the Amendment took out. That's what we're concurring in. If you'd take a look... Please take a look at the Amendment."

Skinner: "Well, tell me what..."

Mautino: "You've got to speak apples to apples here. What you're talking about is the old Bill. The new Bill does not require the small businesses to have a 100,000,000 in assets. It does not require them to put up 40% of the value of their contracts, nor purchase that insurance policy. It was done because your small guys can't afford..."

Skinner: "So what does a small guy have to do? He has to send

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some form to the Department of Insurance."

Mautino: "Right."

Skinner: "They have to send this?"

Mautino: "And they have to send that form, they have to keep on file and tell people what is in the contract they just bought, plainly."

Skinner: "Well, that's the Consumer Fraud Division of the Attorney General's Office. That's their role. Why are we giving to the..."

Mautino: "Well, actually, this provides the recordkeeping so the Attorney General can do their job. Right now, there are no records."

Skinner: "Who's exempt?"

Mautino: "Okay. A service contract provider who is a manufacturer or a wholly owned subsidiary of the manufacturer of the product or the builder, seller or lessor of the product that is subject of the service contract, is required to comply only with Sections 30, 35, 45 and 50 of this Act. If you go there, those are the consumer protections of the Acts and the disclosure requirements. A service contract provider who sells a motor vehicle or who leases, but is not the manufacturer of the motor vehicle, but is subject to the service contract, must comply with this Act in its entirety (sic-entirety). Basically, we've taken out the concerns of your small heating and cooling folks, the plumbers, those home builders, the realtors, those who have raised objections, and I do understand the NFIB, who's the spokesman of small business, is in favor of this."

Skinner: "Who wants this Bill? I mean, why... I mean, I realize the first time this was up, probably everybody voted for it, probably I voted for it."



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Mautino: "You did."

Skinner: "But what's the need for this Bill?"

Mautino: "The need for this Bill is to protect consumers. If you  
have paid..."

Skinner: "No, No. How many consumers have complained to your  
office?"

Mautino: "May I ask you a question?"

Skinner: "Why not?"

Mautino: "Why not?"

Skinner: "We're in free form."

Mautino: "Absolutely. If you went out and paid money and for  
example, my family business was a beer distributorship. I  
buy cooling contracts. So if I paid \$10,000 up front to  
this company, or if you did, and they went under tomorrow,  
now I have no recourse under today's Illinois law."

Skinner: "Sure you do, you call Uncle Guido. That's what I'd  
do."

Mautino: "You know, that's a thought."

Skinner: "That's a thought."

Mautino: "That's a thought, but the average consumer might not be  
able to do that. He would just basically, the small  
business guy, would be out a lot of money because we as a  
state don't regulate it. So, if we don't require anyone to  
back up a service contract they sell. That's what...  
that's the need."

Skinner: "Well, how is it backed up by sending a piece of paper  
to the Insurance Department?"

Speaker Lang: "While we're waiting for Mr. Mautino's answer, the  
Chair recognizes Representative Shirley Jones."

Jones, S.: "Yes, Mr. Speaker."

Mautino: "The department's weighing in. Okay, we'll be right  
back here."

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Speaker Lang: "Go ahead. Mr. Mautino. Mr. Mautino, wait one moment. Representative Jones."

Jones, S.: "Yes, Mr. Speaker, I have a personal privilege. I would like to introduce Andrew Jackson Language Academy that's...within my district. Will you please stand up? Also, Art Turner's son is in this classroom and also my grandson."

Speaker Lang: "Welcome to Springfield. Welcome. Mr. Mau... Thank you, Representative Jones. Mr. Mautino, do you have the answer to Mr. Skinner's question?"

Mautino: "Am I back on? Okay. The department expressed a concern here and what they have said, their inability right now, also under current law, is to get to the companies that are just selling the service contracts. You and I get together and decide we are going to sell service contracts. Right now they have no way to regulate and some of these are large companies. As well, so that they can go out and also removes the ability for potential fraud. They would have financial disclosure and financial requirements as well. That's the department's concern."

Speaker Lang: "Mr. Stephens."

Stephens: "Well, I suppose if the Bill were limited to just those groups that specialize in the service contracts and not in the original provision of equipment or supplies, maybe there would be some...more merit to it. I believe that the House erred when we passed the original Bill out, Representative. I just...I just don't agree that..."

Mautino: "I agree that the original Bill, once it went to the Senate, needed to be corrected because of its impact on small business."

Stephens: "Well, I certainly understand that and agree with you that Senate Amendment 1 makes the original legislation that

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we passed to the Senate a little easier to live with. But on this side, a lot of us are stuck with the position that rethinking the original Bill. We believe that this is really just going to be detrimental to a lot of small businesses, mom and pop kind of shops in downstate Illinois that you and I are so familiar with, that...trying to make a go of it. We think that the overall Bill, even with your Amendment that improved it, is probably not ready at this time for consideration a good public policy. I would just stand in opposition. I think this is an anti-small business Bill in the bottom line. I say that with all due respect, and I know that your attempt is well-intentioned but I disagree with the net result. So I stand in opposition. Thank you, Mr. Presiding Officer."

Speaker Lang: "Mr. Lawfer."

Lawfer: "Thank you very much. Will the Sponsor yield?"

Speaker Lang: "Mr. Mautino yields."

Lawfer: "I've been listening to some of this discussion. But if I was a small business and failed to meet the requirements, what would the penalty be in this regard, Representative?"

Mautino: "Could you repeat that? I couldn't hear..."

Lawfer: "If I was a small business, say I was a business of one or two people providing, for example, I think they should cover a TV repair shop that had one or two employees. If I'd failed to keep...do the recordkeeping that was necessary and I assume there would be recordkeeping necessary, if I failed to do that, what would the penalty be?"

Mautino: "If you are not living up to your service contracts, then the Director of the Department of Insurance can order you to not sell them, to cease and desist."

Lawfer: "A C&D, is that right?"

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Mautino: "Yeah."

Lawfer: "Okay. And now what would...how would that be determined? Would that...could that be determined by a complaint of a..."

Mautino: "A complaint would be filed against you and then the department would come in and investigate just as the Attorney General would if you had to go a different route with a complaint against fraud or whatever deed. The department would come in, they would take a look and see if you're living up to what you've promised the consumer you would do. If you don't, then you will lose the ability to sell service contracts. So if your word's no good, you're breaking your words to your customers, the department will be able to come in on a consumer complaint and say, 'You can't do this.'"

Lawfer: "Well, Representative, I voted for this Bill when it passed out of here. I think it passed out 115 to 0, so I assume I voted for it and...but it has definitely, the Senate Amendment has improved it. But on the other hand, in a rural area where I live, much similar to yours, if somebody doesn't live up to the service contract we have the ability to go somewhere else and take our business elsewhere. And I think that's much more effective than the enforcement of this particular Bill and therefore, I am going to look very closely at this before the vote's taken. Thank you very much for your indulgence, Representative."

Speaker Lang: "Mr. Mautino to close."

Mautino: "Thank you. Ladies and Gentlemen, I appreciate the amount of time that we've spent on the effort. We've had some good questions. The original Bill that passed was designed to provide consumer protections in an area which is unrelated now and that's service contracts. So that if

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a business goes out and takes the consumer's money and says that they're going to provide this service, then they must do it. The original Bill was flawed in that it had thresholds and protections that a small business could not meet. Therefore, we removed those requirements to allow the small business comp...the small businesses with their agreement and the support of all the business groups to do this. Now this is model legislation which is being done nationally, as well, but here it provides consumer protections where none exists right now. It will require that if you sell someone a contract that you register with the Department of Insurance and tell them that you are selling an insurance contract. That's what this is. Then you would have to fully disclose to the person who is buying this contract exactly what they're in for, what their rights are in cancellation and if they cancel early, how much they may be charged. All these are specific items which were drawn into it to protect the consumer. The Amendment itself took out the objections of small business, of home builders, the plumbers, the contractors, the mechanical engineering companies that provide these contracts, and they are in favor of it. Representative Giglio, in the real world, lives by these contracts. This is the man who said that they want this for the consumer protection and also that this Bill will not damage the small business. He's a small business owner, so am I. Our objective here is to put in the consumer protections that we don't have in the law now. It is agreed. There are no opponents, and to that I give the credit to Senator Tom Walsh, who spent a lot of time negotiating this between the business groups, the labor unions who are now in favor of it, the...basically, everyone who raised objection, and

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rightly so, on the original Bill. So, with that, I ask you for an 'aye' vote."

Speaker Lang: "Mr. Granberg, for what reason do you rise?"

Granberg: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. I wonder, I just came onto the floor and I had a question on this Bill. I heard it while I was in my office. I wonder if you would extend me the courtesy to ask the Sponsor one question before you actually ask for a roll call on the vote?"

Speaker Lang: "Proceed, Sir."

Granberg: "Thank you. Mr. Mautino, the same courtesy we extended the Gentleman from Danville two days ago, if I might add. Mr. Mautino, under Griffin v. Washburn, does the department have the authority to negotiate those third party contracts? Is that the intent of what this Bill is doing? Under the court case, the court case of Griffin v. Washburn, does the department have the authority to negotiate or get involved in third party contracts?"

Mautino: "That's actually what they're trying to get to with this Bill, so they would have the ability and the authority over those they don't currently have now."

Granberg: "So they don't have the ability right now to oversee that process?"

Mautino: "Correct. They cannot oversee those and that is the case which was cited in committee as well."

Granberg: "Oh, I'm sorry. That's why I just came out. I didn't know for sure. Because this is a pro-consumer measure. I just wanted to make sure they didn't have the authority currently. That's what you're attempting to do."

Mautino: "That's correct."

Granberg: "Thank you very much."

Speaker Lang: "The question is..."

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Mautino: "You don't really want me to close again do you, Lou?"

Speaker Lang: "No, we don't need you to close again. The question is, 'Shall the House concur in Senate Amendment #1 to House Bill 3464?' This is final action. All those in favor shall signify by voting 'aye'; those opposed shall vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, please take the record. On this question, there are 96 voting 'yes' and 18 voting 'no', and this Bill, having received the Constitutional Majority, is hereby declared passed. House Bill 3431, Representative Zickus."

Zickus: "Thank you, Mr. Speaker. Senate Amendment 1 becomes the Bill. It retains the intent of the original Bill as passed by the House, but it reflects an agreement between the Department of Public Aid, various managed care community networks, the Illinois State Medical Society, Illinois Hospital and Health Systems Association, Cook County Hospital, and the Illinois Association of HMOs. The Amendment will permit the managed care community networks to contract directly with DPA to provide health care through programs administered by DPA. The HMOs are neutral on it. I know of no opponents."

Speaker Lang: "There being no one seeking recognition the question is, 'Shall the House concur in Senate Amendment... Sorry, Mr. Black, your light was not on as I spoke, but it is on now.'"

Black: "That's right. Thank you, Mr. Speaker. Your left arm was covering my light. Will the Sponsor yield?"

Speaker Lang: "The Lady will yield. Representative Hartke in the Chair."

Black: "Representative, is an HMO a service contract?"

Zickus: "I would think so."

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Black: "Do they have to register now with the Department of Insurance?"

Zickus: "Yes."

Black: "That's what I would think. I mean, we're going to push this service contract thing... If I'm in a prepaid legal service, is that a service contract?"

Zickus: "As it applies to the last Bill?"

Black: "It's very interesting. Very interesting. And so there's no opposition to this Bill?"

Zickus: "There is no opposition that I know of."

Black: "Just like there was no opposition to the last Bill. Let the record reflect that my brother was opposed to the last Bill."

Zickus: "Okay. Well, you're... I don't know of any opposition to this Bill, Representative Black."

Black: "Oh, all right. Thank you. But it might be a service contract, might'n it not?"

Zickus: "Pardon?"

Black: "We'd be very interes... I mean, this could be construed as a service contract. If I sign up with a managed care network to take out my tonsils or whatever, then it could be construed as a service contract."

Zickus: "I think that that's something totally different."

Black: "Well, I hope so. Well, we'll see. Thank you."

Speaker Hartke: "Further discussion? Seeing no one is seeking recognition, Representative Zickus to close."

Zickus: "I would appreciate your 'aye' vote on concurring with Senate Amendment 1."

Speaker Hartke: "The question is, 'Shall the House concur in Senate Amendments #1 to House Bill 3431?' This is final action. All those in favor signify by voting 'aye'; those opposed vote 'no'. The polling is open. Have all voted



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who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, take the record. On this question there are 116 Members voting 'yes', 0 voting 'no' and 0 voting 'present', and the House does concur in Senate Amendment #1 to House Bill 3431. Mr. Clerk, what is the status of House Bill 1225? Excuse me, Senate Bill."

Clerk Bolin: "Senate Bill 1225, it's on the Order of Senate Bills, Third Reading."

Speaker Hartke: "Place that Bill on Second for purposes of an Amendment. For what purpose does Representative Black seek recognition?"

Black: "Mr. Speaker, I have an inquiry of the Chair, if I might."

Speaker Hartke: "State your inquiry."

Black: "Will the Rules Committee be meeting prior to adjournment today?"

Speaker Hartke: "That's a very good question. I'll check."

Black: "Well, Mr. Speaker, on behalf of many of us and I don't think this is a partisan issue and I don't want to get into another Motion to Discharge, but I have filed House Joint Resolution 66, and I'm sure many people will sponsor that with me to disapprove the Compensation Review Board package. Now, none of those Resolutions have been reported from Rules and I don't want to sit here in 24 hours and vote on a budget that's going to have a significant pay raise for elected officials in the State of Illinois, when we couldn't quite do some of the tax relief measures that we have discussed for most of this Session. So, I, rather than file the written Motion and take the time of the chamber, I would just like the record to reflect that I am concerned that HJR 66 has not been reported from Rules as has...as none of the Resolutions filed that would disapprove the Compensation Review Board package request

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have made it out of Rules. And I think before we move to the budget, it would be nice that we could be on record as to what we intend to do with the Compensation Review Board recommendation. And so, I'll not file the written Motion and move to discharge today but I will first thing in the morning if we don't hear from Rules. And I thank you for your indulgence."

Speaker Hartke: "Thank you, Mr. Black. Representative Lang in the Chair."

Speaker Lang: "On page 3 of the Calendar, under Senate Bills, Third Reading, there appears Senate Bill 1289. Mr. Clerk, please read the Bill."

Clerk Rossi: "Senate Bill 1289, a Bill for an Act amending the Illinois Vehicle Code. Third Reading of this Senate Bill."

Speaker Lang: "Mr. McAuliffe."

McAuliffe: "Thank you, Mr. Speaker, Ladies and Gentlemen of the House. Senate Bill 1289 is the Bill that deals with the 'huffing'. It amends the Illinois Vehicle Code of DUI provision to prohibit driving under the influence of any intoxicating compound in a driver's blood or urine, to a degree that renders the person incapable of driving safely. It also defines what intoxicating compound is and I'd be happy to answer any questions."

Speaker Lang: "The Gentleman moves for the passage of Senate Bill 1289, and on that question, the Chair recognizes Representative O'Brien."

O'Brien: "Thank you, Mr. Speaker. I rise in very strong support of this Bill, and want to commend the Sponsor for working not only with the Senate Sponsor, Senator Dudycz, but also with the Illinois State Police regarding some concerns they have. And this Bill specifically deals with a problem in the statute that does not allow for prosecution for driving

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under the influence for people that use inhalants. So, an individual can be under the influence of an inhalant and not be eligible to be charged for the offense of driving under the influence, and it has been a serious problem for... within the county of Will. And I would certainly urge an 'aye' vote."

Speaker Lang: "Mr. Black."

Black: "Thank you very much, Mr. Speaker. Will the Sponsor yield?"

Speaker Lang: "Gentleman yields."

Black: "Representative, is there a definitive outline of what constitutes an intoxicating compound in statute?"

McAuliffe: "Yes, there is."

Black: "So, if it is not... if it is not specifically listed in statute, then it could not be used in this law. Correct?"

McAuliffe: "Correct."

Black: "All right, because Representative Erwin was standing over here in front of my desk, and I found that her perfume was an intoxicating compound, and I wanted to know if it was a... if it was listed in the underlying statute? Particularly, when she told me it was 'Iceabutal #5.'"

McAuliffe: "No, that wouldn't be included in this Bill."

Black: "Well, all right. I just wanted to make sure she didn't get in trouble. I thank you for that... answering that question. I'm trying to find the Senate vote on this."

McAuliffe: "The Senate vote was 54-0."

Black: "You know one of these days we're going to get one over here where all 58 actually voted on it. But, okay. Thank you."

Speaker Lang: "Mr. McAuliffe to close."

McAuliffe: "I just ask for a favorable vote."

Speaker Lang: "The question is, 'Shall this Bill pass?' All

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those in favor shall signify by voting 'aye'; those opposed shall vote 'no'. The voting is open. Have all voted who wish? Have all voted who wish? Have all voted who wish? Mr. Clerk, please take the record. On this question, there are 116 voting 'yes', 0 voting 'no' and 0 voting 'present', and this Bill, having received the Constitutional Majority, is hereby declared passed. On page 9 of the Calendar, under the Order of Nonconcurrency, there appears Senate Bill 1286. Representative Zickus on a Motion."

Zickus: "Thank you, Mr. Speaker. I refuse to recede... oh, I'm sorry. Yes, I refuse to recede from House Amendment #2."

Speaker Lang: "There being no discussion, the question is, 'Shall the House refuse to recede from House Amendment #2?' Those in favor shall say 'aye'; those opposed 'no'. In the opinion of the Chair, the ayes have it and the House does refuse to recede from House Amendment #2 and Representative Zickus moves that a Conference Committee be appointed. Mr. Clerk; Supplemental Calendar announcement."

Clerk Rossi: "Supplemental Calendar #1 is being distributed."

Speaker Lang: "Mr. Clerk, on Supplemental Calendar #1, there appears Senate Joint Resolution 61. Representative Cowlshaw."

Cowlshaw: "Thank you very much, Mr. Speaker. Ladies and Gentlemen of the House, this is the Resolution which proposes to deny certain of the mandate waiver requests submitted by local school districts. If there are any of you during this brief description of the actual Amendment... or the actual Resolution, if any of you have not had an opportunity to see the whole report with all of the requests from all of the school districts, I have that right here in my hand and any one of you is welcome to come over and consult it. In fact, the only requests that are

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being denied in this particular Resolution are one in relation to IGAP testing, requested by Norridge School District #80. Two requests having to do with banked time in relation to the amount of general state aid to be received. Those requests were from Matteson School District #162 and... oh both of them were from Matteson School District 162, based upon two different types of criteria. Then there is a request from Beach Park Community School District #3, which has to do with permitting substitute teachers to teach for 180 days in any one school year as long as they did not exceed 90 consecutive teaching days in any one classroom. Now, my friends, that is a very great departure from the current leg... legal provisions regarding what a substitute teacher must do to be qualified to be a substitute teacher and also the maximum amount of time that person can spend in a classroom in any one academic year. I would like to mention to you that in denying this request from Beach Park, the Legislature would be in complete accord with the positions of both the Illinois Education Association and the Illinois Federation of Teachers, both of which are very strongly opposed to granting this request regarding substitute teachers. Then there are 24 school districts, which I will not list because it would take quite awhile, requesting waivers from the new administrative expenditure cap that was passed as part of House Bill 452 on December 2, 1997. I think it is apparent that there was a mistake made in the drafting of that particular provision because it was only intended, as I understand it, it was only intended to apply to the salaries for superintendents. Instead, it has been interpreted by the state board to apply to almost any expenditure that would fall under the

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general category of 'administration', even to the point of expenditures for attorney fees in relation to liability. Clearly, it was never the intention that there should be any cap on that, since that is not something the school district can control. So, it is suggested in this Resolution that all of these requests be denied, and that at the same time there should be revised language that makes clear what the cap really does apply to, adopted before the end of this Session. That language is already drafted and is moving through the Senate. Finally, there is one, there is one request... have another request from Norridge in regard to the administrative contract but for a slightly different reason. The fact is, that none of these requests being denied would have any fiscal impact on the state, whatsoever. I would add that I believe the State Board of Education is in favor of denying the IGAP testing exemption, the bank time and the bank time for the Matteson School District. I find it rather interesting the State Board of Education does not object to this drastic change in the substitute teachers. That is objected to by the IEA and the IFT. Mr. Speaker, I think it is important for us all to realize that anything that is not denied in the same language by both chambers, automatically goes into effect. Since this is the only Resolution that still has time to be adopted, I urge its acceptance."

Speaker Lang: "The Chair recognizes Representative Brown."

Brown: "Thank you, Mr. Speaker. On Senate Bill 3464, I inadvertently voted 'no'. I wanted to vote 'yes'."

Speaker Lang: "The record will so reflect. Thank you, Sir. The Chair recognizes Representative Persico."

Persico: "Thank you, Mr. Speaker. Will the Sponsor yield?"

Speaker Lang: "The Sponsor will yield. Let's take it easy on our